

## REMARKS

Claims 1-36 were previously presented in the above-identified application. Upon entry of this amendment, which cancels claims 3 and 28, amends claims 1 and 26 and adds new claims 37-42, claims 1-2, 4-27, 29-42 remain pending. The Applicants respectfully request reconsideration of the claim rejections in view of the above amendments and the following remarks. No new matter has been added with this amendment.

Applicants are canceling claims 3 and 28 without prejudice or disclaimer of the subject matter contained therein and reserve the right to reinstate the originally filed claims in a co-pending application.

### Double Patenting.

Claim 1 was rejected under 37 CFR §1.78(b) for double patenting in view of co-pending U.S. patent applications 10/007,326 (the subject application) and 10/150,206. Further, dependent claims 2-25 were objected to as being dependent upon rejected base claim 1, but have been deemed allowable if rewritten in independent form. Specifically, claim 1 of the above-identified application has been identified as being in conflict with claim 1 of U.S. patent application 10/150,206, which was filed on May 17, 2002, and titled "APPARATUS AND METHOD FOR CONTROLLING OPTICAL GAIN PROFILES IN A TEMPERATURE INDEPENDENT MANNER. Applicants respectfully traverse this rejection.

Applicants submit that a clear line of demarcation is maintained between the claims of each of the two applications. For example, claim 1 of U.S. patent application 10/150,206 recites at least one variable optical element to dynamically alter the polarization state of a polarized optical beam, wherein said at least one variable optical element is "a compound birefringent crystal." See U.S. Pat. Appn. 10/150,206, claim 1, lines 3-4. This element is absent from claim 1 of the subject application. As such, Applicants believe claim 1 of U.S. patent application 10/150,206 is directed to different inventive subject matter than that claimed in the present

application. Therefore, Applicants respectfully request reconsideration of the double patenting rejection.

But in an effort to expedite the prosecution of the application, Applicants have rewritten claim 1 to include allowable subject matter from claim 3. As amended, claim 1 now recites a transmitted amplitude altered as a function of wavelength "in accordance with a selected profile." Accordingly, independent claim 1 is now in condition for allowance. Claims 2 and 4-25 depend from allowable independent claim 1 and thus are patentable for at least the same reasons. Therefore, withdrawal of the double patenting rejection in connection with these claims is respectfully requested.

**Section 102(b): Liang.**

Claim 26 was rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,307,667 ("Liang"). Although Liang does not teach or suggest the subject matter set forth in claims 30-33, as indicated in the Official Action, these claims were rejected as being obvious to one having ordinary skill in the art. Further, dependent claims 2-25 and 34-36 were objected to as being dependent upon rejected base claim 26, but have been deemed allowable if rewritten in independent form. Applicants respectfully traverse this rejection.

Applicants submit that Liang fails to disclose each of the elements of claim 26, as originally filed. Nonetheless, in an effort to expedite the prosecution of the application, Applicants have amended independent claim 26 to include allowable subject matter from claim 28. As amended, claim 26 now recites altering the transmitted amplitude of said polarization-altered optical beam as a function of wavelength "in accordance with a selected profile." Accordingly, independent claim 26 is now in condition for allowance. Claims 27-29, 30-33, and 34-36 depend from allowable independent claim 26 and thus are patentable for at least the same reasons. Therefore, withdrawal of the §102(b) rejection in connection with these claims is respectfully requested.

New Claims.

New claim 37 includes subject matter from originally filed claim 26 and allowable claim 28. In particular, claim 37 recites a method of processing an optical beam "wherein said optical beam is processed with amplitude varying monotonically with wavelength." Claims 37-42 depend from allowable independent claim 37 and thus are patentable for at least the same reasons as claims 26 and 28.

**CONCLUSION**

In sum, all of the independent claims and their associated dependent claims should now be in a condition for allowance, which is respectfully solicited. If the Examiner believes that any of the claims are not in a condition for allowance, the Examiner is encouraged to contact the undersigned to resolve any outstanding issues.

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